

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS (EASTERN DIVISION)

IN RE:

Ruby J. Adams

Debtor(s)

Case No.: 20-03841

Chapter: 13

Hearing Date: 6/22/2020

Judge David D. Cleary

NOTICE OF MOTION

TO: Marilyn O Marshall, Chapter 13 Trustee, 224 South Michigan Ste 800, Chicago, IL 60604 by electronic notice through ECF
Ruby J. Adams, Debtor(s), 121 E. 87th Street, Chicago, IL 60619
Jessica A. Boone, Attorney for Debtor(s), 20 S. Clark Street, 28th Floor, Chicago, IL 60603 by electronic notice through ECF

PLEASE TAKE NOTICE that on 6/22/2020, at 1:30PM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge David D. Cleary, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 644, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

A party who objects to this motion and wants it called must file a Notice of Objection no later than two (2) business days before the presentment date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion without a hearing before the date of presentment.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on June 4, 2020 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on June 4, 2020.

/s/ Karl Meyer
Attorney for Movant

Berton J. Maley ARDC#6209399
Rachael A. Stokas ARDC#6276349
Peter C. Bastianen ARDC#6244346
Joel P. Fonferko ARDC#6276490
Brenda Ann Likavec ARDC#6330036
Karl V. Meyer ARDC#6220397
Grant W. Simmons ARDC#6330446
Codilis & Associates, P.C.
15W030 North Frontage Road, Suite 100
Burr Ridge, IL 60527
(630) 794-5300
14-18-10329

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on June 4, 2020 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on June 4, 2020.

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/s/ Karl Meyer

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES PHH Mortgage Corporation, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 121 East 87th Street, Chicago, IL 60619;
3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 2/11/2020;
4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;
5. Pursuant to the plan, Debtor(s) is/are to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 05/01/2020, the Debtor(s) is/are past due for the 3/1/2020 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 05/01/2020, the total post-petition default through and including 5/1/2020, is \$3,503.23. Any payments received after this date may not be reflected in this default. This amount includes post-petition attorney fees in the amount of \$1,750.00;
- c) On 06/01/2020, the default will increase to \$4,087.64 and will continue to increase as additional amounts become due;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

9. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

- \$1,050.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same
- \$181.00 for Court filing fee
- \$250.00 for Plan Review
- \$550.00 for Objection to Confirmation
- \$700.00 for Proof of Claim
- \$250.00 for 410A POC Pay History

10. PHH Mortgage Corporation services the underlying mortgage loan and note for the property referenced in this Motion for Relief for PHH Mortgage Corporation (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of PHH Mortgage Corporation (the noteholder). PHH Mortgage Corporation (the noteholder) has the right to foreclose because: Noteholder is the owner of the note. Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

WHEREFORE, PHH Mortgage Corporation prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this June 4, 2020.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Karl Meyer

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